

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

JOAN M. PENCE,

Plaintiff,

vs.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

No. C07-0084

ORDER FOR REMAND

This matter comes before the Court on the Motion to Reverse and Remand and for Entry of Final Judgment (docket number 15) filed by the Commissioner of Social Security on April 4, 2008. The Commissioner's Motion states:

After reviewing the record and Eighth Circuit law, undersigned Agency counsel asked the Appeals Council to agree to voluntary remand, pursuant to Sentence 4. The Appeals Council has agreed to remand for the purpose of issuing a fully favorable decision finding Plaintiff disabled during the period at issue.

See Commissioner's Motion to Reverse and Remand and for Entry of Final Judgment at 1. On April 3, 2008, Plaintiff Joan M. Pence filed Plaintiff's Notice of Non-Resistance to Defendant's Motion to Reverse and Remand pursuant to Sentence 4 of 42 U.S.C. § 405(g) (docket number 16). In her non-resistance, Pence states "Plaintiff does not resist Defendant's Motion, and respectfully requests the Court to enter an order reversing and remanding this case under sentence four of 42 U.S.C. § 406(g) for the purpose of issuing a fully favorable decision." *See* Pence's Notice of Non-Resistance to Defendant's Motion to Reverse and Remand pursuant to Sentence 4 of 42 U.S.C. § 405(g) at 1.


Because the Commissioner requests a remand pursuant to sentence four of 42 U.S.C. § 405(g),¹ the Court must conduct a plenary review of the record and provide a substantive ruling regarding the case. *Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991). The Court has reviewed the record in this matter and finds that this matter should be reversed and remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) with directions to issue a fully favorable decision finding Plaintiff disabled during the period at issue.

ORDER

IT IS THEREFORE ORDERED as follows:

1. The Motion to Reverse and Remand for Entry of Final Judgment (docket number 15) filed by the Commissioner of Social Security is hereby **GRANTED**.
2. This case is hereby **REVERSED** and **REMANDED** to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g), for issuance of a fully favorable decision finding Plaintiff disabled during the period at issue.

DATED this 4th day of April, 2008.



JON STUART SCOLES
United States Magistrate Judge
NORTHERN DISTRICT OF IOWA

¹ 42 U.S.C. § 405(g) provides in pertinent part:

The court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing.